## **United States District Court, Northern District of Illinois**



Name of Assigned Judge or Magistrate Judge	James B. Moran	Sitting Judge if Other than Assigned Judge	·	
CASE NUMBER	02 C 6746	DATE	3/20/2003	
CASE TITLE	Peter Bennett	Peter Bennett vs. Arrow Financial Services LLC		

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

MOTION:

WAH

courtroom

deputy's initials

Status hearing[held/continued to] [set for/re-set for] on set for at					
Pretrial conference[held/continued to] [set for/re-set for] on set for at					
Trial[set for/re-set for] on at					
[Bench/Jury trial] [Hearing] held/continued to at					
This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  □ FRCP4(m) □ Local Rule 41.1 □ FRCP41(a)(1) □ FRCP41(a)(2).					
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## IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

PETER BENNETT,	)	
	)	
Plaintiff,	)	
vs.	) No. 02 C 6746	
ARROW FINANCIAL SERVICES LLC,	)	DOCKETED
Defendant.	)	MAR 2 1 2003

## MEMORANDUM OPINION AND ORDER

On December 26, 2002, we dismissed the two claims then alleged, but we granted leave to amend. Plaintiff did file an amended complaint, albeit late, still referring to alleged conduct which was the basis for his dismissed claims, and not alleging intent with particular clarity. Defendant moves to strike. We will not strike for being somewhat tardy; we disregard the allegations relating to dismissed claims; and we believe that the amended complaint, fairly read, does allege telephone calls made with intent to annoy, abuse or harass.

The conduct of which plaintiff complains is more than five telephone calls on September 10, 2002. Plaintiff also alleges he received two letters several months earlier, but we do not understand that allegation to bolster his claim in any way. Can more than five telephone calls on a single day with the requisite intent rise to the level of a 15 U.S.C. §1692d(5) violation? Perhaps not. But perhaps so. With notice pleading we must consider possible scenarios giving rise to liability, and those we can envision. Perhaps defendant can prevail on summary judgment, but for now plaintiff states a claim. The motion to strike is denied.

JAMES B. MORAN
Senior Judge, U. S. District Court

March 20, 2003.

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